

ORIGINAL

FILED
U.S. DISTRICT COURT
AUGUSTA DIV.
IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA

2005 JUL 21 PM 1:04

DUBLIN DIVISION

CLERK L. Flanders
SO. DIST. OF GA.

DWIGHT GOODEN,

Plaintiff,

v.

MICHAEL PUGH, Warden, et al.,

Defendants.

CV 305-076

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION


Plaintiff Dwight Gooden, an inmate at McRae Correctional Facility in McRae, Georgia, commenced the above-captioned civil rights case *pro se* and requested permission to proceed *in forma pauperis*. On May 2, 2005, the Court directed Plaintiff to return his Prisoner Trust Fund Account Statement and Consent to Collection of Fees forms within thirty (30) days and advised Plaintiff that all prisoners, even those proceeding *in forma pauperis*, must pay the filing fee of \$250.00 in full. 28 U.S.C. § 1915(b)(1). Plaintiff was cautioned that failure to respond would be an election to have this case voluntarily dismissed without prejudice. (See doc. no. 3). Plaintiff failed to respond.

Because the test for determining the appropriateness of dismissal is whether there is "a clear record of delay or willful contempt and a finding that lesser sanctions would not suffice," Goforth v. Owens, 766 F.2d 1533, 1535 (11th Cir. 1985), on June 16, 2005, the Court granted Plaintiff ten (10) additional days to comply with the terms of the Court's May 2nd Order. (See doc. no. 4). Once again, Plaintiff was warned that his failure to comply in a

timely fashion with the Court's Order would result in a recommendation that his case be dismissed.

The time to respond has passed, and Plaintiff has not submitted the documents required by the Court's May 2, 2005 Order, nor has he provided the Court with any explanation why he has not complied. Because Plaintiff has not paid the filing fee or consented to the collection of the filing fee in installments, the Court finds that the imposition of monetary sanctions is not a feasible sanction. Therefore, pursuant to Loc. R. 41.1(b) & (c), the Court **REPORTS** and **RECOMMENDS** that this case be **DISMISSED**, without prejudice.

SO REPORTED and RECOMMENDED this 21st day of July, 2005, at Augusta, Georgia.



W. LEON BARFIELD
UNITED STATES MAGISTRATE JUDGE

United States District Court
Southern District of Georgia

ATTORNEYS SERVED:

Dwight Gooden, Pro-se

CASE NO: CV305-76

DATE SERVED: July 21, 2005

SERVED BY: Cindy Reynolds *CR*

- ☐ Copy placed in Minutes
- ☐ Copy given to Judge
- ☒ Copy given to Magistrate